

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY)	
)	
Petition for General Increase in Delivery Service)	Docket No. 10-0467
Rates)	

THE PEOPLE OF THE STATE OF ILLINOIS’
RESPONSE TO COMMONWEALTH EDISON COMPANY’S
MOTION TO MODIFY NOTICE SCHEDULING ORAL ARGUMENT

The People of the State of Illinois (“the People”), by Lisa Madigan, Attorney General of the State of Illinois, and pursuant to Part 200.190 of the Illinois Commerce Commission’s (“the Commission”) rules, 83 Ill.Admin.Code Part 200.190, hereby respond to Commonwealth Edison Company’s (“ComEd” or “the Company”) Motion to Modify Notice Scheduling Oral Argument.

1. In its Motion, ComEd argues that the current Notice of Oral Argument prejudices their ability to present oral argument on the topics listed in the Notice and that “[t]he inevitable effect of the scheduling allocation set forth in the April 26 Notice is that ComEd will not be arguing on a level playing field and the Commission will not benefit from a balanced argument.” Motion at

2. ComEd then suggests that, if the Commission permits two hours for oral argument, for example, it should divide that time among the issues equally or as it otherwise sees fit, “and then specify that of the total allowed for any issue, ComEd should have a minimum of one-third of that time, with the remainder to be divided between Staff, on one hand, and the remaining parties on the other.” *Id.* at 3.

2. ComEd’s proposal, however, inappropriately categorizes any party that opposes the Company as one and the same. Each of the intervenors that addressed the issues that are the subject of oral argument has spent considerable time and resources on presenting their view on

the appropriate way to set rates in this case. Merely because parties have excepted to issues in the Proposed Order does not mean that their positions are the same or not distinct. For example, on the issue of return on equity, IIEC, Staff and AG/CUB each presented a different conclusion as to what an appropriate return on equity is for purposes of setting ComEd's rates in this case. Parties who file exceptions to a Proposed Order's conclusions should not be deprived of their opportunity to present oral argument on the issues simply because their position conflicts with a utility's interests. ComEd's proposal to divide time allotments into thirds does just that.

3. In addition, ComEd's proposal is inconsistent with the oral argument procedure adopted in ComEd's last rate case, ICC Docket No. 07-0566. As documented in the attachment to this Response, the Commission, after allocating designated amounts of time per issue, did *not* divide those allocations into the thirds ComEd advocates. For example, on the issue of accumulated depreciation, the allotments were as follows: ComEd – 10 minutes; Staff – 5 minutes; Intervenors (IIEC, CG, AG, CUB) – 15 minutes. On the issue of Rider SMP, the time allotments were as follows: ComEd – 15 minutes; Staff – 10 minutes; Intervenors (AG, BOMA, IIEC REACT, CG, CTA, Metra, Nucor, Kroger, CNE, AARP, CUB) – 25 minutes. Ruling of August 15, 2008, ICC Docket No. 07-0566. The bottom line is that the Commission must afford intervenors a fair opportunity to present their distinct arguments.

4. Should the Commission choose to provide more specific guidance as to time allotments for the issues identified in the Notice, the People urge the Commission to reject ComEd's request for a one-third Company/one-third Staff/one-third intervenor-as-a-group time allotment per issue and allocate time in a manner similar to that adopted in the last ComEd rate case.

WHEREFORE, the People respectfully request that the Commission reject ComEd's suggested time allotment for oral argument in this case.

Respectfully submitted.

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